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EXAMINER				
GUGLIOTTA, NICOLE T				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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pto.phil@dlapiper.com

ADVISORY ACTION

Response to Arguments

1. Applicants argue that the reference of Kato discloses the entanglement of bundled ultra-fine fibers, not individual ultra-fine fibers. See Remarks, Pages 5 – 6.

EXAMINER'S RESPONSE: First, it is noted that the features upon which applicant relies (i.e., individual ultra-fine fiber entanglement) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Second, Applicants note in their argument that the portion labeled B by Kato comprises "ultra-fine fibers and fine bundles of ultra-fine fibers branched from the ultra-fine fiber bundles that are entangled with one another" (Applicants' Remarks, Pg 5, Kato Col. 3, Lines 59 – 63). Examiner believes the entanglement of ultra-fine fibers entangled with branched ultra-fine fibers from the bundles would satisfy the entanglement of individual fibers.

2. Applicants argue that the reference of Kato teach a limited amount of entanglement and not a "substantial" amount, as required by Applicant's claim 39. See Remarks, Page 5.

EXAMINER'S RESPONSE: Applicants' arguments have been fully considered but they are not persuasive. A substantial amount of the ultra-fine fibers in the

disclosure of Kato are in bundles, and those bundles are entangled. Therefore, a substantial amount of the ultra-fine fibers were entangled.

3. Applicants argue, "The rejection states in paragraph 4 that Kato suggests the use of polyurethane elastomer as optional (Col. 5, Lines 24 – 30). The Applicants agree that in that sentence, Kato described this. However, Kato does not disclose an artificial leather sheet which does not contain polyurethane elastomer" (Remarks, Page 7).

EXAMINER'S RESPONSE: Applicants' arguments have been fully considered but they are not persuasive. First, Kato teaches the polyurethane elastomer is optional. Therefore, the reference clearly suggests an artificial leather with does not contain a polyurethane elastomer. Second, the teachings of Kato are not limited to the examples alone, but also include the broader teachings of the disclosure.

4. Applicants argue, "To obtain the claimed range of 10% modulus, it is necessary to perform hydro-entanglement at a pressure of at least 10 MPa after forming at least substantially all of the ultra-fine fibers. The rejection states in paragraph 13 that in Example 4 of Kato, hydro-entangling under water pressure of 100 kg/cm² (9.8 MPa) is disclosed. The Applicants agree. However, the hydro-entangling is performed before forming the ultra-fine fibers. In Example 4 of Kato, formation of ultra-fine fibers is performed after hydro-entangling (Col. 14, Lines 55 - 57). It is important for the Applicants to perform hydro-entangling after forming the ultra-fine fibers or else substantially all of the ultra-fine fibers are not entangled" (Remarks, Pg 8).

EXAMINER'S RESPONSE: Applicants' arguments have been fully considered but they are not persuasive. First, Examiner considers 9.8 MPa to be approximately 10 MPa. Second, Examiner respectfully notes Col. 14, Lines 55 – 57 of Kato is a discussion of the dying process of the fibers. Kato clearly discusses in Example 4 the formation of the ultra-fine fiber first and the hydro-entanglement of the fibers afterward (Col. 13, Line 65).

5. Applicants argue, "The property of 10% modulus being 8 N/cm or more means that nonwoven fabric of Claim 29 is dense and hard...In sharp contrast, Kato discloses a nonwoven fabric that is required to be flexible in Column 2, lines 11- 18. Further, Kato states in Column 3, lines 37 - 42 that that entanglement of the fibers of the nonwoven fabric as a whole is very dense and mutual restriction of fiber movement occurs so that the nonwoven fabric has insufficient flexibility. Thus, the fabrics of Kato and the Applicants leads in opposite directions concerning flexibility of a nonwoven sheet" (Remarks, Pgs 8 - 9).

6. Applicants argue Kato does not disclose the Applicants' claimed tensile strength and tear strength. "The rejection accounts for this failure of disclosure with respect to the tensile strength and the tear strength by invoking inherency as set forth in MPEP 1221. However, the Applicants respectfully submit that inherency cannot be established in this instance. That is because the Applicants' claimed nonwoven fabric is made in a critically different way relative to the Kato disclosure" (Remarks, Pg 9).

EXAMINER'S RESPONSE: Applicants' arguments have been fully considered but they are not persuasive. Applicants have failed to provide clear evidence to substantiate their allegations that the properties discussed above are not inherent in the disclosure of Kato.

7. Applicants argues, "The Applicants also invite the Examiner's attention to Example 1 which, as noted above, employs fiber bundles that are ultimately entangled with one another. The result of that approach is a nonwoven fabric that has an apparent density of 0.19 g/cm^3 . Even after further treatment with a heated roller, the apparent density increases to 0.21 g/cm^3 . However, this is outside of Applicants' claimed apparent density of 0.280 to 0.700 g/cm^3 " (Remarks, Pg 10).

EXAMINER'S RESPONSE: Examiner respectfully notes Kato's disclosure comprises the broader teaching for the apparent density to be as large as 0.6 g/cm^3 . The teachings of a reference are not limited to the examples.

8. Applicants argue, "The Applicants have factually demonstrated by referring to Kato that, in the embodiments in Kato not employing an elastomer bonding agent, there is an impact on the physical characteristics disclosed by Kato with respect to apparent density. Those apparent densities are outside of the Applicants' claimed range and one skilled in the art could reasonably expect that, if the apparent density is different, the tensile strengths and tear strengths could very well be different" (Remarks, Pg 10).

EXAMINER'S RESPONSE: Applicants' arguments have been fully considered but they are not persuasive. As discussed above, the broader teaching of an apparent density as large as 0.6 g/cm^3 is taught by Kato. Applicants have failed to provide clear evidence to substantiate their allegations that the properties discussed above are not inherent in the disclosure of Kato.

9. Applicants argue, "The Applicants respectfully submit that Katayama fails to cure the deficiencies set forth above with respect to Kato" (Remarks, Pg 11).

EXAMINER'S RESPONSE: Applicants have failed to persuade the Examiner of the deficiencies of Kato. Therefore, the rejection of Kato, in view of Katayama is maintained.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NICOLE T. GUGLIOTTA whose telephone number is (571)270-1552. The examiner can normally be reached on M - F 8:30 - 6 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David R. Sample can be reached on 571-272-1376. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/David R. Sample/
Supervisory Patent Examiner, Art Unit 1794

NICOLE T. GUGLIOTTA
Examiner
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